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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 PLANS FOR  
ALLOCATING NET SETTLEMENT  
FUNDS**

This matter came on for hearings in connection with separate settlements achieved in the above-captioned class action (“Action”) with each of defendants Darryl S. Baker, John N. Kapoor, and Michael L. Babich (collectively, the “Settlements”) on Class Representative’s motions (Docs. 405, 409, 424) to determine whether the proposed plan of allocation (“Plan of Allocation”) of the net settlement funds created by the Settlements should be approved.<sup>1</sup> The Plan of Allocation is the same for all three Settlements. Docs. 407-2, Ex. B, App. A; 411-2, Ex. B, App. A, 426-2, Ex. B., App. A.

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<sup>1</sup> The Court held a final hearing for each of the Settlements (collectively, the “Settlement Fairness Hearings”). The final hearing for the Baker Settlement was held on September 23, 2020 the final hearing for the Kapoor Settlement was held on October 15, 2020; and the final hearing for the Babich Settlement was held on November 18, 2020.

1           The Court having considered all matters submitted to it at the Settlement Fairness  
2 Hearings and otherwise; and it appearing that notice of the Settlements and Settlement  
3 Fairness Hearings substantially in the forms approved by the Court was mailed to all Class  
4 Members who or which could be identified with reasonable effort, and that a summary  
5 notice of the Settlements and Settlement Fairness Hearings substantially in the forms  
6 approved by the Court were published in *Investor's Business Daily* and transmitted over  
7 *PR Newswire* pursuant to the specifications of the Court set forth in each of its Orders  
8 preliminarily approving the Settlements (Docs. 347, 373, 402); and the Court having  
9 considered and determined the fairness and reasonableness of the proposed Plan of  
10 Allocation,

11           NOW, THEREFORE, IT IS HEREBY ORDERED granting Class Representative's  
12 motions (Docs. 405, 409, 424).

13           IT IS FURTHER ORDERED THAT:

14           1.       This Order approving the proposed Plan of Allocation incorporates by  
15 reference the definitions in: (i) the Stipulation and Agreement of Settlement Between Lead  
16 Plaintiff and Defendant Darryl S. Baker dated May 22, 2020 (Doc. 341-1); (ii) the  
17 Stipulation and Agreement of Settlement Between Lead Plaintiff and Defendant John N.  
18 Kapoor dated July 1, 2020 (Doc. 371-1); and (iii) the Stipulation and Agreement of  
19 Settlement Between Lead Plaintiff and Defendant Michael L. Babich dated July 21, 2020  
20 (Doc. 399-1) (collectively, the "Stipulations") and all terms not otherwise defined herein  
21 shall have the same meanings as set forth in the Stipulations.

22           2.       The Court has jurisdiction to enter this Order approving the proposed Plan of  
23 Allocation, and over the subject matter of the Action and all parties to the Action, including  
24 all Class Members.

25           3.       Notice of Class Representative's motions for approval of the proposed Plan  
26 of Allocation was given to all Class Members who or which could be identified with  
27 reasonable effort. The forms and methods of notifying the Class of the motions for approval  
28

1 of the proposed Plan of Allocation satisfied the requirements of Rule 23 of the Federal  
2 Rules of Civil Procedure, the United States Constitution (including the Due Process  
3 Clause), the Private Securities Litigation Reform Act of 1995 (15 U.S.C. §§ 77z-1, 78u-4),  
4 as amended, and all other applicable law and rules, constituted the best notice practicable  
5 under the circumstances, and constituted due and sufficient notice to all persons and entities  
6 entitled thereto.

7 4. In the aggregate, more than 93,900 Postcard Settlement Notices and more  
8 than 12,600 long-form Settlement Notices for the Settlements were mailed to potential  
9 Class Members and nominees, and the long-form Settlement Notices for the Settlements,  
10 which included the Plan of Allocation, were posted on the Website. Docs. 407-2, 411-2,  
11 426-2. An additional 886 long-form Settlement Notices (including the Plan of Allocation)  
12 were downloaded from the Website. Docs. 423-1, 426-2.

13 5. There are no objections to the Plan of Allocation.

14 6. The Court hereby finds and concludes that the formula for the calculation of  
15 the claims of Claimants as set forth in the Plan of Allocation provides a fair and reasonable  
16 basis upon which to allocate the proceeds of each Net Settlement Fund among Class  
17 Members with due consideration having been given to administrative convenience and  
18 necessity.

19 7. The Court hereby finds and concludes that the Plan of Allocation is, in all  
20 respects, fair and reasonable to the Class. Accordingly, the Court hereby approves the Plan  
21 of Allocation proposed by Class Representative.

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

24 Dated this 18th day of November, 2020.

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Neil V. Wake  
Senior United States District Judge