

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

JAY RABKIN, Individually and on Behalf
of All Others Similarly Situated,

Plaintiff,

v.

LION BIOTECHNOLOGIES, INC.,
MANISH SINGH, MICHAEL
HANDELMAN, and KAMILLA BJORLIN,

Defendants.

Case No. 3:17-cv-02086-SI

CLASS ACTION

JUDGMENT APPROVING CLASS ACTION SETTLEMENT

WHEREAS, a securities class action is pending in this Court entitled *Rabkin v. Lion Biotechnologies, Inc., et al.*, Case No. 3:17-cv-02086-SI (“Action”);

WHEREAS, Lead Plaintiff Jay Rabkin, on behalf of himself and the other members of the Settlement Class (as defined below), and defendants Lion Biotechnologies, Inc. (n/k/a Iovance Biotherapeutics, Inc.) (“Lion” or “Company”), Manish Singh, and Michael Handelman (collectively, “Defendants,” and together with Lead Plaintiff, on behalf of himself and the other members of the Settlement Class, “Parties”) have entered into the Stipulation of Settlement and Release dated September 28, 2018 (“Stipulation”), that provides for a complete dismissal with prejudice of the

1 claims asserted against Defendants in the Action on the terms and conditions set forth in the
2 Stipulation, subject to the approval of this Court (“Settlement”);

3 WHEREAS, unless otherwise defined in this Judgment, the capitalized terms used herein shall
4 have the same meanings as they have in the Stipulation;

5 WHEREAS, by Order dated November 30, 2018 (“Preliminary Approval Order”), this Court:
6 (a) preliminarily approved the Settlement; (b) provisionally certified the Settlement Class solely for
7 the purpose of effectuating the Settlement; (c) directed that notice of the proposed Settlement be
8 provided to Settlement Class Members; (d) provided Settlement Class Members with the opportunity
9 either to exclude themselves from the Settlement Class or to object to the Settlement; and
10 (e) scheduled a hearing regarding final approval of the Settlement;

11 WHEREAS, due and adequate notice has been given to the Settlement Class;

12 WHEREAS, the Court conducted a hearing on April 12, 2019 (“Settlement Fairness
13 Hearing”) to consider, among other things, (a) whether the terms and conditions of the Settlement are
14 fair, reasonable, and adequate to the Settlement Class, and should therefore be approved; and
15 (b) whether a judgment should be entered dismissing the Action with prejudice as against the
16 Defendants; and

17 WHEREAS, the Court having reviewed and considered the Stipulation, all papers filed and
18 proceedings held herein in connection with the Settlement, all oral and written comments received
19 regarding the Settlement, and the record in the Action, and good cause appearing therefor;

20 NOW THEREFORE, IT IS HEREBY ORDERED:

21 1. **Jurisdiction**—The Court has jurisdiction over the subject matter of the Action, and
22 all matters relating to the Settlement, as well as personal jurisdiction over all of the Parties and each
23 of the Settlement Class Members.

24 2. **Incorporation of Settlement Documents**—This Judgment incorporates and makes a
25 part hereof: (a) the Stipulation filed with the Court on September 28, 2018; and (b) the Notice and
26 the Summary Notice, both of which were filed with the Court on February 21, 2019.

27 3. **Certification of the Settlement Class for Purposes of Settlement**—Pursuant to Rule
28 23 of the Federal Rules of Civil Procedure, this Court finally certifies, solely for purposes of

1 effectuating the Settlement, this Action as a class action on behalf of a Settlement Class defined as
2 all persons and entities who purchased or otherwise acquired Lion common stock between
3 September 27, 2013 and April 10, 2017, inclusive, and who were damaged thereby. Excluded from
4 the Settlement Class are (i) Defendants, Kamilla Bjorlin, and their Immediate Family members;
5 (ii) the current and former officers and directors of the Company, and their Immediate Family
6 members; (iii) the legal representatives, heirs, successors or assigns of any of the foregoing excluded
7 party; and (iv) any entity in which Defendants, Kamilla Bjorlin, or Lidingo Holdings LLC have or
8 had a controlling interest. Also excluded from the Settlement Class are any persons and entities who
9 or which excluded themselves from the Settlement Class by submitting a request for exclusion, as
10 listed on the attached Exhibit 1.

11 4. Lead Plaintiff is hereby appointed, for purposes of effectuating the Settlement only,
12 as representative for the Settlement Class for purposes of Federal Rule of Civil Procedure 23. Kessler
13 Topaz Meltzer & Check, LLP, which was appointed by the Court to serve as Lead Counsel, is hereby
14 appointed, for settlement purposes only, as counsel for the Settlement Class pursuant to
15 Rule 23(c)(1)(B) and (g) of the Federal Rules of Civil Procedure.

16 5. **Notice**—The Court finds that the dissemination of the Notice and the publication of
17 the Summary Notice: (a) were implemented in accordance with the Preliminary Approval Order;
18 (b) constituted the best notice practicable under the circumstances; (c) constituted notice that was
19 reasonably calculated, under the circumstances, to apprise Settlement Class Members of (i) the
20 pendency of the Action; (ii) the effect of the proposed Settlement (including the Releases to be
21 provided thereunder); (iii) Lead Counsel’s motion for an award of attorneys’ fees and reimbursement
22 of Litigation Expenses; (iv) their right to object to any aspect of the Settlement, the Plan of Allocation,
23 and/or Lead Counsel’s motion for attorneys’ fees and reimbursement of Litigation Expenses; (v) their
24 right to exclude themselves from the Settlement Class; and (vi) their right to appear at the Settlement
25 Fairness Hearing; (d) constituted due, adequate, and sufficient notice to all persons and entities
26 entitled to receive notice of the proposed Settlement; and (e) satisfied the requirements of Rule 23 of
27 the Federal Rules of Civil Procedure, the United States Constitution (including the Due Process
28

1 Clause), the Private Securities Litigation Reform Act of 1995, 15 U.S.C. § 78u-4, as amended, and
2 all other applicable law and rules.

3 6. **CAFA**—The Court finds that the notice requirements set forth in the Class Action
4 Fairness Act of 2005, 28 U.S.C. § 1715, to the extent applicable to the Action, have been satisfied.

5 7. **Final Settlement Approval and Dismissal of Claims**—Pursuant to, and in
6 accordance with, Rule 23 of the Federal Rules of Civil Procedure, this Court hereby fully and finally
7 approves the Settlement set forth in the Stipulation in all respects (including, without limitation: the
8 amount of the Settlement; the Releases provided for therein; and the dismissal with prejudice of the
9 claims asserted against Defendants in the Action), and finds that the Settlement is, in all respects, fair,
10 reasonable, and adequate to the Settlement Class. Specifically, the Court finds that the Settlement is
11 fair, reasonable, and adequate under Federal Rule of Civil Procedure 23(e)(2), having considered and
12 found that (a) Lead Plaintiff and Lead Counsel have adequately represented the Settlement Class; (b)
13 the proposal was negotiated at arm's length; (c) the relief provided for the Settlement Class is
14 adequate, having taken into account: (1) the costs, risks, and delay of trial and appeal; (2) the
15 effectiveness of any proposed method of distributing relief to the Settlement Class, including the
16 method of processing Settlement Class Member claims; (3) the terms of any proposed award of
17 attorneys' fees, including timing of payment; and (4) any agreement required to be identified under
18 Rule 23(e)(3); and (d) the proposal treats class members equitable relative to each other. The Parties
19 are directed to implement, perform and consummate the Settlement in accordance with the terms and
20 provisions contained in the Stipulation.

21 8. The Action and all of the claims asserted against Defendants in the Action by Lead
22 Plaintiff and the other Settlement Class Members are hereby dismissed with prejudice. The Parties
23 shall bear their own costs and expenses, except as otherwise expressly provided in the Stipulation.

24 9. **Binding Effect**—The terms of the Stipulation and of this Judgment shall be forever
25 binding on Defendants, Lead Plaintiff, and all other Settlement Class Members (regardless of whether
26 or not any individual Settlement Class Member submits a Claim Form or seeks or obtains a
27 distribution from the Net Settlement Fund), as well as their respective successors and assigns. The
28

1 persons and entities listed on Exhibit 1 hereto are excluded from the Settlement Class pursuant to
2 request and are not bound by the terms of the Stipulation or this Judgment.

3 10. **Releases**—The Releases set forth in paragraphs 5 through 7 of the Stipulation,
4 together with the definitions contained in paragraph 1 of the Stipulation relating thereto, are expressly
5 incorporated herein in all respects. The Releases are effective as of the Effective Date. Accordingly,
6 this Court orders that:

7 (a) Without further action by anyone, and subject to paragraph 11 below, upon the
8 Effective Date of the Settlement, Lead Plaintiff and each of the other Settlement Class Members, on
9 behalf of themselves, and their respective Immediate Family members, heirs, trusts, trustees,
10 members, partners, including limited partners, shareholders, executors, estates, administrators,
11 beneficiaries, agents, affiliates, insurers and reinsurers, predecessors, successors, assigns, advisors,
12 corporate parents and subsidiaries in their capacities as such, shall be deemed to have, and by
13 operation of law and of the Judgment shall have, fully, finally and forever compromised, settled,
14 released, resolved, relinquished, waived and discharged each and every Released Plaintiffs' Claim
15 against the Defendant Releasees, and shall forever be barred and enjoined from prosecuting any or
16 all of the Released Plaintiffs' Claims against any of the Defendant Releasees.

17 (b) Without further action by anyone, and subject to paragraph 11 below, upon the
18 Effective Date of the Settlement, Defendants, on behalf of themselves, and their respective heirs,
19 executors, administrators, predecessors, successors and assigns in their capacities as such, shall be
20 deemed to have, and by operation of law and of the Judgment shall have, fully, finally and forever
21 compromised, settled, released, resolved, relinquished, waived and discharged each and every
22 Released Defendants' Claim against the Plaintiff Releasees, and shall forever be barred and enjoined
23 from prosecuting any or all of the Released Defendants' Claims against any of the Plaintiff Releasees.

24 11. Notwithstanding paragraphs 10(a) – (b) above, nothing in this Judgment shall bar any
25 action by any of the Parties to enforce or effectuate the terms of the Stipulation or this Judgment.

26 12. **Rule 11 Findings**—The Court finds and concludes that the Parties and their respective
27 counsel have complied in all respects with the requirements of Rule 11 of the Federal Rules of Civil
28 Procedure in connection with the institution, prosecution, defense, and settlement of the Action.

1 13. **No Admissions**—Neither the Stipulation (whether or not consummated), including
2 the exhibits thereto and the Plan of Allocation contained therein (or any other plan of allocation that
3 may be approved by the Court), the negotiations leading to the execution of the Stipulation, nor any
4 proceedings taken pursuant to or in connection with the Stipulation and/or approval of the Settlement
5 (including any arguments proffered in connection therewith):

6 (a) shall be offered against any of the Defendant Releasees as evidence of, or
7 construed as, or deemed to be evidence of any presumption, concession, or admission by any of the
8 Defendant Releasees with respect to the truth of any fact alleged by Lead Plaintiff or the validity of
9 any claim that was or could have been asserted or the deficiency of any defense that has been or could
10 have been asserted in this Action or in any other litigation, or of any liability, negligence, fault, or
11 other wrongdoing of any kind of any of the Defendant Releasees or in any way referred to for any
12 other reason as against any of the Defendant Releasees, in any civil, criminal or administrative action
13 or proceeding, other than such proceedings as may be necessary to effectuate the provisions of the
14 Stipulation;

15 (b) shall be offered against any of the Plaintiff Releasees, as evidence of, or
16 construed as, or deemed to be evidence of any presumption, concession or admission by any of the
17 Plaintiff Releasees that any of their claims are without merit, that any of the Defendant Releasees had
18 meritorious defenses, or that damages recoverable under the Amended Complaint would not have
19 exceeded the Settlement Amount or with respect to any liability, negligence, fault or wrongdoing of
20 any kind, or in any way referred to for any other reason as against any of the Plaintiff Releasees, in
21 any civil, criminal or administrative action or proceeding, other than such proceedings as may be
22 necessary to effectuate the provisions of the Stipulation; or

23 (c) shall be construed against any of the Releasees as an admission, concession,
24 or presumption that the consideration to be given hereunder represents the amount which could be or
25 would have been recovered after trial;

26 *provided, however,* that if the Stipulation is approved by the Court, the Parties and the Releasees and
27 their respective counsel may refer to it to effectuate the protections from liability granted hereunder
28 or otherwise to enforce the terms of the Settlement.

1 14. **Retention of Jurisdiction**—Without affecting the finality of this Judgment in any
2 way, this Court retains continuing and exclusive jurisdiction over: (a) the Parties for purposes of the
3 administration, interpretation, implementation, and enforcement of the Settlement; (b) the disposition
4 of the Settlement Fund; (c) any motion for an award of attorneys’ fees and/or Litigation Expenses by
5 Lead Counsel in the Action that will be paid from the Settlement Fund; (d) any motion to approve
6 the Plan of Allocation; (e) any motion to approve the Class Distribution Order; and (f) the Settlement
7 Class Members for all matters relating to the Action.

8 15. Separate orders shall be entered regarding approval of a plan of allocation and the
9 motion of Lead Counsel for an award of attorneys’ fees and reimbursement of Litigation Expenses.
10 Such orders shall in no way affect or delay the finality of this Judgment and shall not affect or delay
11 the Effective Date of the Settlement.

12 16. **Modification of the Agreement of Settlement**—Without further approval from the
13 Court, Lead Plaintiff and Defendants are hereby authorized to agree to and adopt such amendments
14 or modifications of the Stipulation or any exhibits attached thereto to effectuate the Settlement that:
15 (a) are not materially inconsistent with this Judgment; and (b) do not materially limit the rights of
16 Settlement Class Members in connection with the Settlement. Without further order of the Court,
17 Lead Plaintiff and Defendants may agree to reasonable extensions of time to carry out any of the
18 provisions of the Settlement.

19 17. **Termination of Settlement**—If the Settlement is terminated as provided in the
20 Stipulation or the Effective Date of the Settlement otherwise fails to occur, this Judgment shall be
21 vacated, rendered null and void and be of no further force and effect, except as otherwise provided
22 by the Stipulation, and this Judgment shall be without prejudice to the rights of Lead Plaintiff,
23 Settlement Class Members, and Defendants, and the Parties shall be deemed to have reverted *nunc*
24 *pro tunc* to their respective positions in the Action as of the date immediately prior to the execution
25 of the Stipulation. Except as otherwise provided in the Stipulation, in the event the Settlement is
26 terminated in its entirety or if the Effective Date fails to occur for any reason, the balance of the
27 Settlement Fund including interest accrued therein, less any Notice and Administration Costs actually
28 incurred, paid, or payable and less any Taxes and Tax Expenses paid, due or owing, shall be returned

1 to the parties who contributed to the payment of the Settlement Amount in the same proportions as
2 their respective contributions as instructed by the Company's counsel, in accordance with the
3 Stipulation.

4 18. **Entry of Final Judgment**—There is no just reason to delay the entry of this Judgment
5 and immediate entry by the Clerk of the Court is expressly directed.

6
7 SO ORDERED this 17th day of April, 2019.

8
9 

10 _____
11 The Honorable Susan Illston
12 United States District Judge
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

EXHIBIT 1

**List of Persons and Entities Excluded from
the Settlement Class Pursuant to Request**

1. Michael Clay Mathis
Las Vegas, Nevada
2. Mokhtar Bounceur
Quebec, Canada