

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

**ORDER AWARDING ATTORNEYS' FEES AND EXPENSES**

WHEREAS, this matter came on for hearing on April 12, 2019 (the "Settlement Fairness Hearing") on Lead Counsel's motion for an award of attorneys' fees and reimbursement of Litigation Expenses. The Court having considered all matters submitted to it at the Settlement Fairness Hearing and otherwise; and it appearing that notice of the Settlement Fairness Hearing substantially in the form approved by the Court was mailed to all Settlement Class Members who could be identified with reasonable effort, and that a summary notice of the hearing substantially in the form approved by the Court was published in *Investor's Business Daily* and transmitted over the *PRNewswire* pursuant to the specifications of the Court; and the Court having considered and determined the fairness and reasonableness of the award of attorneys' fees and Litigation Expenses requested; and

1 WHEREAS, this Order incorporates by reference the definitions in the Stipulation of  
2 Settlement and Release dated as of September 28, 2018 (ECF No. 121) (the “Stipulation”), and all  
3 capitalized terms not otherwise defined herein shall have the same meanings as set forth in the  
4 Stipulation.

5 NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

6 1. **Jurisdiction**—The Court has jurisdiction to enter this Order and over the subject  
7 matter of the Action, as well as personal jurisdiction over all of the Parties and each of the Settlement  
8 Class Members.

9 2. **Notice**—Notice of Lead Counsel’s motion for an award of attorneys’ fees and  
10 reimbursement of Litigation Expenses was given to all Settlement Class Members who could be  
11 identified with reasonable effort. The form and method of notifying the Settlement Class of the  
12 motion for an award of attorneys’ fees and reimbursement of Litigation Expenses satisfied the  
13 requirements of Rules 23 and 54 of the Federal Rules of Civil Procedure, the United States  
14 Constitution (including the Due Process Clause), the Private Securities Litigation Reform Act of  
15 1995, 15 U.S.C. § 78u-4, as amended, and all other applicable law and rules; constituted the best  
16 notice practicable under the circumstances; and constituted due and sufficient notice to all persons  
17 and entities entitled thereto.

18 3. **Fee and Expense Award**—Lead Counsel is hereby awarded attorneys’ fees in the  
19 amount of \$759,650.47 (25% of \$3,038,601.90<sup>1</sup>) and \$56,398.10 in reimbursement of Lead Counsel’s  
20 Litigation Expenses (which fees and expenses shall be paid from the Settlement Fund), which sums  
21 the Court finds to be fair and reasonable. The attorneys’ fees and expenses awarded will be paid to  
22 Lead Counsel from the Settlement Fund in accordance with the terms of the Stipulation.

23 4. **Factual Findings**—In making this award of attorneys’ fees and expenses to be paid  
24 from the Settlement Fund, the Court has considered and found that:

25 a. The Settlement has created a fund of \$3,250,000 in cash that has been funded  
26 into escrow pursuant to the terms of the Stipulation, and that numerous Settlement Class Members  
27

28 <sup>1</sup> \$3,250,000 (fund) - \$150,000 (administrative costs) - \$56,398.10 (expenses) - \$5,000 (lead plaintiff’s award) = \$3,038,601.90

1 who submit acceptable Claim Forms will benefit from the Settlement that occurred because of the  
2 efforts of Lead Counsel;

3 b. The fee sought by Lead Counsel has been reviewed and approved as  
4 reasonable by Lead Plaintiff, who oversaw the prosecution and resolution of the Action;

5 c. An aggregate of 21,240 copies of the Notice were mailed to potential  
6 Settlement Class Members and nominees stating that Lead Counsel would apply for attorneys' fees  
7 in an amount not to exceed 25% of the Settlement Fund, and Litigation Expenses in an amount not to  
8 exceed \$85,000, which amount may include a request for reimbursement to Lead Plaintiff in an  
9 amount not to exceed \$5,000;

10 d. Lead Counsel has conducted the litigation and achieved the Settlement with  
11 skillful and diligent advocacy;

12 e. The Action raised a number of complex issues;

13 f. Had Lead Counsel not achieved the Settlement, there would remain a  
14 significant risk that Lead Plaintiff and the other members of the Settlement Class may have recovered  
15 less or nothing from Defendants;

16 g. Lead Counsel devoted more than 1,800 hours, with a lodestar value of  
17 \$903,764.50, to achieve the Settlement; and

18 h. The amount of attorneys' fees awarded and Litigation Expenses to be  
19 reimbursed from the Settlement Fund are fair and reasonable and consistent with awards in similar  
20 cases.

21 5. **PLSRA Award**—Lead Plaintiff Jay Rabkin is hereby awarded \$5,000 from the  
22 Settlement Fund as reimbursement for his reasonable costs directly related to his representation of  
23 the Settlement Class.

24 6. **No Impact on Judgment**—Any appeal or any challenge affecting this Court's  
25 approval regarding any attorneys' fees and expense application shall in no way disturb or affect the  
26 finality of the Judgment.

27 7. **Retention of Jurisdiction**—Exclusive jurisdiction is hereby retained over the Parties  
28 and the Settlement Class Members for all matters relating to this Action, including the administration,

1 interpretation, effectuation, or enforcement of the Stipulation and this Order.

2  
3 8. **Termination of Settlement**—In the event that the Settlement is terminated or the  
4 Effective Date of the Settlement otherwise fails to occur, this Order shall be rendered null and void  
5 to the extent provided by the Stipulation.

6 9. **Entry of Order**—There is no just reason for delay in the entry of this Order, and  
7 immediate entry by the Clerk of the Court is expressly directed.

8  
9 SO ORDERED this 17th day of April, 2019.

10  
11 

12 \_\_\_\_\_  
13 The Honorable Susan Illston  
14 United States District Judge