UNITED STATES DISTRICT COURT

MIDDLE DISTRICT OF PENNSYLVANIA

DOUGLAS S. CHABOT, et al., Individually and on Behalf of All Others Similarly Situated, Plaintiffs, vs. WALGREENS BOOTS ALLIANCE, INC., et al., Defendants.	Civ. Action No. 1:18-cv-02118-JPW CLASS ACTION LEAD PLAINTIFFS' MEMORANDUM OF LAW IN SUPPORT OF MOTION FOR FINAL APPROVAL OF SETTLEMENT AND APPROVAL OF PLAN OF ALLOCATION

TABLE OF CONTENTS

Page

Page

TABLE OF AUTHORITIES

Page

CASES

Page

Page

STATUTES, RULES AND REGULATIONS

I. OVERVIEW

Pursuant to Rule 23(e) of the Federal Rules of Civil Procedure, Lead Plaintiffs seek final approval of this remarkable all-cash settlement of $192.5 million, paid by Walgreens and certain of its executives, with no contributing insurance money, to a Class of Rite Aid investors.[1] Following eight years of hard-fought litigation, this certified class action was approaching a three-week jury trial commencing on January 29, 2024. But after an intense arm's-length mediation overseen by the Honorable Layn R. Phillips (Ret.), a highly respected mediator and retired federal district court judge, the parties agreed to this Settlement. As a result, this Settlement would bring finality to the federal securities claims regarding the failed Rite Aid/Walgreens Merger, which Lead Counsel initially filed in this Court back in 2015.

This is an outstanding recovery for the Class. It is the largest securities class action recovery ever achieved in this District, it is the second largest such recovery ever achieved in any Pennsylvania federal court, and its value relative to the Class's estimated damages is many multiples above comparable securities settlements. It is also the largest securities class action recovery in history – by far – paid by a company and its executives for issuing misleading statements that impacted the stock price of a

[1] Unless otherwise stated or defined, all capitalized terms used herein have the meanings provided in the Stipulation of Settlement (the "Stipulation"). ECF 307-1. All citations and footnotes are omitted and all emphasis is added, unless otherwise indicated.

different and unaffiliated company. There should be no doubt that Lead Plaintiffs attained the highest possible Class-wide recovery for these claims, relative to the extreme risks of this case and its continued litigation.

At this advanced stage of litigation, the Settling Parties were certainly well informed of the strengths and weaknesses of their claims and defenses as they negotiated the Settlement. After a fiercely contested and voluminous document discovery process, the Settling Parties took a combined thirty depositions and exchanged twelve expert reports. The parties were the beneficiaries of eight detailed written opinions from this Court, including the Court's extensive analysis of Lead Plaintiffs' claims in two motion to dismiss rulings, multiple discovery rulings, and a fifty-five page ruling on the parties' motions for summary judgment.

The Settlement readily satisfies the requirements of Rule 23(e)(2) and meets each of the Third Circuit's factors from *Girsh v. Jepson*, 521 F.2d 153, 157 (3d Cir. 1975). The Settlement also has the support of each of the Lead Plaintiffs. *See* Declarations of Douglas S. Chabot and Corey M. Dayton, submitted herewith. Likewise, the Plan of Allocation set forth in the Notice should be approved because it treats Class Members equitably and ensures that each Class Member who properly submits a valid Claim Form will receive a *pro rata* share of the monetary relief.

For the reasons set forth herein and in the accompanying Declaration of David A. Knotts in Support of Settlement Motions ("Knotts Decl."), Lead Plaintiffs

respectfully request final approval of the proposed Settlement and approval of the Plan of Allocation.

II. STATEMENT OF FACTS AND ABBREVIATED PROCEDURAL HISTORY OF THE ACTION

This is a securities class action on behalf of all persons and entities who purchased or otherwise acquired Rite Aid common stock from October 20, 2016 to June 28, 2017. At issue are allegedly misleading statements and omissions made by Walgreens and certain of its executives regarding the status of the FTC review of a then-pending merger between Rite Aid and Walgreens (the "Merger").

As the Court noted in its ruling on the motions for summary judgment, "[t]he instant lawsuit has its origins in *Hering v. Rite Aid Corporation*, No. 1:15-CV-2440 (M.D. Pa.), a putative securities class action brought by a Rite Aid shareholder after cancellation of the merger." ECF 286 at 25. Lead Counsel filed the *Hering* case in 2015 and the Court ultimately denied Defendants' motion to dismiss (but granted Rite Aid's motion to dismiss) on July 11, 2018. *See Hering v. Rite Aid Corp.*, 331 F. Supp. 3d 412 (M.D. Pa. 2018).

On November 2, 2018, "Plaintiffs filed the present class action lawsuit based in the main on statements Judge Jones found actionable in *Hering*." ECF 286 at 25. On November 16, 2018, the Court granted Lead Plaintiffs' Motion for Appointment as Substitute Lead Plaintiffs. ECF 16. Defendants filed another motion to dismiss, which the Court denied after full briefing. ECF 50.

The Court granted Lead Plaintiffs' motion for class certification on January 21, 2020. ECF 121. The Court also appointed Lead Plaintiffs as Class Representatives and Lead Counsel as Class Counsel. *Id.* The Court then approved a form and manner of class notice, involving a widely publicized and extensive distribution of the notice to potential Class Members. ECF 157.

From May 2019 to November 2020, Plaintiffs served subpoenas on eight third parties, nearly all of which produced documents and a witness for deposition. The discovery process also involved five contested rulings from this Court on a variety of discovery issues and disputes (all of which involved briefing and hearings), the most significant of which found that Walgreens waived its attorney-client privilege and ordered that "Defendants shall produce and un-redact all documents containing information or analysis regarding the status of the FTC review process." ECF 135 at 15.

Ultimately, Defendants produced 785,768 pages of documents and third parties produced 183,997 pages of documents, all of which Lead Counsel reviewed and analyzed in preparation for depositions, summary judgment, and trial. Following fact and expert discovery, which included thirty depositions, the parties filed summary judgment-related briefing from January 24, 2022 through May 2, 2022. ECF 222-282. On March 31, 2023, in a well-reasoned and comprehensive ruling, the Court denied both motions for summary judgment. ECF 286. The Court then set this matter for

trial commencing on January 29, 2024. ECF 292. The parties continued to submit briefing regarding the procedure and conduct of trial. ECF 296, 301.

On July 27, 2023, the parties participated in a full-day mediation in front of Judge Phillips. The parties did not reach a resolution that day, but after three additional weeks of robust arm's-length negotiations, the parties, on August 20, 2023, accepted a "Mediator's Recommendation" from Judge Phillips. On August 23, 2023, the parties signed a Settlement Term Sheet. Following further detailed negotiations, the parties executed the Stipulation on October 18, 2023.

The extensive history of this litigation is also recorded in the Court's eight written opinions – two are published in the Federal Reporter, six are on Westlaw – regarding a variety of complex legal issues, all of which materially advanced the case towards its ultimate resolution:

- *Hering*, 331 F. Supp. 3d 412 (motion to dismiss ruling in July 2018 dismissing the Rite Aid Defendants but sustaining claims against the Walgreens Defendants);
- *Hering v. Walgreens Boots All., Inc.*, 341 F. Supp. 3d 412 (M.D. Pa. 2018) (granting Walgreens' motion for judgment on the pleadings; denying Lead Plaintiffs' motion to intervene);
- *Chabot v. Walgreens Boots All., Inc.*, 2019 WL 2992242 (M.D. Pa. Apr. 15, 2019) (denying the Walgreens Defendants' motion to dismiss);
- *Chabot v. Walgreens Boots All., Inc.*, 2019 WL 13162432 (M.D. Pa. Aug. 16, 2019) (ordering Walgreens to produce documents without relevance redactions);

- *Chabot v. Walgreens Boots All., Inc.*, 2020 WL 3410638 (M.D. Pa. June 11, 2020) (granting Lead Plaintiffs' motion to compel regarding attorney-client privilege issues);

- *Chabot v. Walgreens Boots All., Inc.*, 2021 WL 767516 (M.D. Pa. Feb. 26, 2021) (ruling on a motion to quash a subpoena served on Walgreens' attorneys);

- *Chabot v. Walgreens Boots All., Inc.*, 2021 WL 949443 (M.D. Pa. Mar. 12, 2021) (ruling regarding additional deponents and remote deposition protocol); and

- *Chabot v. Walgreens Boots All., Inc.*, 2023 WL 2908827 (M.D. Pa. Mar. 31, 2023) (denying the parties' motions for summary judgment).

III. STATEMENT OF QUESTIONS INVOLVED

Federal Rule of Civil Procedure 23(e)(2) identifies the following factors to be considered at final approval when determining that a settlement is "fair, reasonable, and adequate":

> **(A)** the class representatives and class counsel have adequately represented the class;
>
> **(B)** the proposal was negotiated at arm's length;
>
> **(C)** the relief provided for the class is adequate, taking into account:
>
> > **(i)** the costs, risks, and delay of trial and appeal;
> >
> > **(ii)** the effectiveness of any proposed method of distributing relief to the class, including the method of processing class-member claims;
> >
> > **(iii)** the terms of any proposed award of attorney's fees, including timing of payment; and
> >
> > **(iv)** any agreement required to be identified under Rule 23(e)(3); and

> **(D)** the proposal treats class members equitably relative to each other.

Fed. R. Civ. P 23(e)(2). These factors are considered alongside, and largely overlap with, those set forth by the Third Circuit in *Girsh*:

> (1) the complexity, expense and likely duration of the litigation; (2) the reaction of the class to the settlement; (3) the stage of the proceedings and the amount of discovery completed; (4) the risks of establishing liability; (5) the risks of establishing damages; (6) the risks of maintaining the class action through the trial; (7) the ability of the defendants to withstand a greater judgment; (8) the range of reasonableness of the settlement fund in light of the best possible recovery; (9) the range of reasonableness of the settlement fund to a possible recovery in light of all the attendant risks of litigation.

521 F.2d at 157 (cleaned up). The Third Circuit later expanded on the *Girsh* factors in *In re Prudential Ins. Co. Am. Sales Prac. Litig. Agent Action*, 148 F.3d 283, 323 (3d Cir. 1998), adding additional factors that the court may consider where appropriate. The *Prudential* factors are: (1) "the maturity of the underlying substantive issues, as measured by experience in adjudicating individual actions, the development of scientific knowledge, the extent of discovery on the merits, and other factors that bear on the ability to assess the probable outcome of a trial on the merits of liability and individual damages;" (2) "the existence and probable outcome of claims by other classes and subclasses;" (3) "the comparison between the results achieved by the settlement for individual class or subclass members and the results achieved – or likely to be achieved – for other claimants;" (4) "whether class or subclass members

are accorded the right to opt out of the settlement;" and (5) "whether any provisions for attorneys' fees are reasonable." 148 F.3d at 323.

"'These factors are a guide and the absence of one or more does not automatically render the settlement unfair.'" *Kanefsky v. Honeywell Int'l Inc.*, 2022 WL 1320827, at *4 (D.N.J. May 3, 2022). "Rather, the Court must look at all the circumstances of the case and determine whether the settlement is within the range of reasonableness under *Girsh*." *In re Valeant Pharms. Int'l, Inc. Sec. Litig.*, 2020 WL 3166456, at *7 (D.N.J. June 15, 2020).

IV. NOTICE COMPLIES WITH RULE 23, DUE PROCESS, AND THE PRELIMINARY APPROVAL ORDER

Rule 23(e) provides that "[t]he court must direct notice in a reasonable manner to all class members who would be bound by the proposal." Fed. R. Civ. P. 23(e)(1)(B). In addition, Rule 23(c)(2)(B) requires that a certified class receive "the best notice that is practicable under the circumstances, including individual notice to all members who can be identified through reasonable effort." Fed. R. Civ. P. 23(c)(2)(B).

Here, the Notice and Summary Notice were approved by the Court in the Preliminary Approval Order (ECF 308), and fully comply with Rule 23. Among other disclosures, the Notice apprises Class Members of the nature of this litigation, the definition of the Class, the claims and issues in the litigation, the claims that will be released in the Settlement, and the requested attorneys' fees and expenses. The Notice

also: (i) advises that a Class Member may enter an appearance through counsel; (ii) describes the binding effect of a judgment on Class Members; (iii) states the procedures and deadline for Class Members to object; (iv) states the procedures and deadline for submitting a Claim Form; and (v) provides the details for the Settlement Hearing. In addition, the Notice and Summary Notice satisfy the Private Securities Litigation Reform Act of 1995's disclosure requirements (15 U.S.C. §78u-4(a)(7)). The contents of the Notice and Summary Notice therefore satisfy all applicable requirements.

The notice program has since been carried out. The Claims Administrator, Gilardi & Co. LLC ("Gilardi"), commenced mailing the Notice and Claim Form on November 13, 2023, to all Class Members who could be reasonably identified, as well as to Gilardi's large database of banks, brokers, and other nominees. *See* Declaration of Ross D. Murray ("Murray Decl."), submitted herewith. As a result of these efforts, a total of 148,320 copies of the settlement notice packets have been sent. *Id.*, ¶¶5-11. On November 20, 2023, Gilardi caused the Summary Notice to be published in *The Wall Street Journal*, and over *Business Wire*, and posted copies of all relevant documents on the Settlement website, www.riteaidsecuritiessettlement.com. *Id.*, ¶¶12, 14. This extensive notice program leaves no stone unturned and is "the best notice . . . practicable under the circumstances." Fed. R. Civ. P. 23(c)(2)(B); *Kanefsky*, 2022 WL 1320827, at *3.

V. THE SETTLEMENT WARRANTS FINAL APPROVAL

"[T]here is an overriding public interest in settling class action litigation, and it should therefore be encouraged." *See In re Warfarin Sodium Antitrust Litig.*, 391 F.3d 516, 535 (3d Cir. 2004). The Third Circuit has also articulated a "strong presumption in favor of voluntary settlement agreements . . . in 'class actions and other complex cases where substantial judicial resources can be conserved by avoiding formal litigation.'" *Ehrheart v. Verizon Wireless*, 609 F.3d 590, 595 (3d Cir. 2010).

A. The Settlement Satisfies the Requirements of Rule 23(e)(2)

1. Lead Plaintiffs and Plaintiffs' Counsel Have More Than Adequately Represented the Class

The first factor under Rule 23(e)(2) concerns the adequacy of representation provided by the class representatives and class counsel. *See* Rule 23(e)(2)(A). This overlaps with the third *Girsh* factor, which focuses on the stage of the proceedings and the amount of discovery completed. 521 F.2d at 157.

Lead Plaintiffs and Lead Counsel have litigated this case from inauspicious beginnings to achieve the largest securities settlement in this District, and the second largest in any Pennsylvania federal court. Indeed, at its inception, no other plaintiffs' law firm even filed a related case (until two opt-out plaintiffs filed individual cases, and only after Lead Plaintiffs advanced past a motion to dismiss). As one court noted in an analogous situation, "[w]hen this suit got under way, no other law firm was willing to serve as lead counsel. Lack of competition . . . suggests that most members

of the securities bar saw this litigation as too risky for their practices." *Silverman v. Motorola Sols., Inc.*, 739 F.3d 956, 958 (7th Cir. 2013)

Over the past eight years, Lead Plaintiffs prevailed on two separate motions to dismiss, a motion for class certification, and multiple discovery motions; obtained and reviewed nearly one million pages of documents; took and/or defended twenty-four fact depositions; engaged in complex expert discovery involving five experts, twelve expert reports, and six expert depositions; defeated Defendants' voluminous, aggressive, and potentially dispositive 72-page motion for summary judgment (and Defendants' corresponding separate statement of 228 purportedly undisputed facts); and were in the midst of trial preparation, including drafting numerous motions *in limine*. Knotts Decl., ¶¶15-93, 129. The collective tenacity of Lead Plaintiffs and Lead Counsel resulted in a very favorable Settlement, providing a substantial and unlikely financial benefit for the Class. Lead Plaintiffs and Plaintiffs' Counsel have thus adequately represented the Class under Rule 23(e)(2)(A) and have secured "'an adequate appreciation of the merits of the case'" by means of substantial discovery and litigation. *Warfarin*, 391 F.3d at 537.

In addition, "courts in this Circuit traditionally 'attribute significant weight to the belief of experienced counsel that settlement is in the best interest of the class.'" *Alves v. Main*, 2012 WL 6043272, at *22 (D.N.J. Dec. 4, 2012), *aff'd*, 559 F. App'x 151 (3d Cir. 2014). Lead Counsel, Robbins Geller, is highly experienced in

prosecuting complex securities class actions in this Circuit and throughout the country, and Liaison Counsel is a highly respected and experienced firm as well. *See, e.g.*, *Pelletier v. Endo Int'l PLC*, 2022 WL 888813, at *3 (E.D. Pa. Mar. 25, 2022) (finding that Robbins Geller and Saxton & Stump LLC "worked vigorously and successfully in bringing this case to a close for the benefit of the class"); *see also* ECF 307-2, 307-3 (firm resumes of Robbins Geller and Saxton & Stump LLC, respectively). Bringing their experience and knowledge of this case to bear, Lead Plaintiffs and Plaintiffs' Counsel are convinced that the Settlement is in the best interests of the Class.

2. The Settlement Negotiations Were Conducted at Arm's Length and Under the Oversight of an Experienced Mediator

The second factor under Rule 23(e)(2) considers whether the Settlement was negotiated at arm's length. *See* Rule 23(e)(2)(B). "'[T]he participation of an independent mediator in settlement negotiations virtually ensures that the negotiations were conducted at arm's length and without collusion between the parties.'" *In re Viropharma Inc. Sec. Litig.*, 2016 WL 312108, at *8 (E.D. Pa. Jan. 25, 2016) (finding presumption of fairness after mediation with Judge Phillips).

Here too, the parties engaged in extensive arm's-length settlement negotiations with Judge Phillips. This included a lengthy in-person, full-day mediation session on July 27, 2023, in New York, NY. Although an agreement was not reached on that

day, arm's-length discussions through Judge Phillips and his office continued over the next month. Ultimately, each side received an unsolicited, double-blind "mediator's proposal" to settle the case on terms proposed by Judge Phillips. Each side accepted the "mediator's proposal" and then negotiated a term sheet, which the parties executed on August 23, 2023. The parties then proceeded to negotiate the precise details and terms of the Settlement, which are reflected in the Stipulation.

In sum, these negotiations were held with each side having full knowledge of all issues in the case through voluminous fact and expert discovery, summary judgment proceedings, and trial preparation. Settlement negotiations were difficult, adversarial, and vigorously executed by both sides. "[A]ccordingly, this factor weighs in favor of approval." *Se. Pa. Transp. Auth. v. Orrstown Fin. Servs., Inc.*, 2023 WL 1454371, at *10 (M.D. Pa. Feb. 1, 2023) ("*SEPTA*").

3. The Settlement Is Adequate Considering the Costs, Risks, and Delay of Trial and Appeal

The third factor under Rule 23(e)(2), which overlaps with *Girsh* factors 1 and 4-9, concerns the adequacy of the Settlement in light of the costs, risks, and delay that trial and appeal could impose. *See* Fed. R. Civ. P. 23(e)(2)(C)(i).

a. Risks of Establishing Liability and Damages

"Securities fraud class actions are notably complex, lengthy, and expensive cases to litigate." *In re Par Pharm. Sec. Litig.*, 2013 WL 3930091, at *4 (D.N.J. July 29, 2013). This case was no different.

Lead Plaintiffs and Lead Counsel built a very strong case, but further litigation no doubt involved risk. *See* Knotts Decl., ¶¶94-107. To prevail at trial, Lead Plaintiffs would have to prove falsity, materiality, scienter, loss causation, and damages. Yet Defendants maintained that their statements regarding the FTC review were not false or misleading, but were actually true. ECF 228 at 50. As Defendants argued, "statements of opinions are not false if the speaker honestly believes them" and that the claims would fail "because the individual defendants believed, genuinely and with a reasonable basis, that the Merger would ultimately be approved." *Id.* at 3, 42.

The risks were further enhanced because, "[a]t trial, Plaintiff[s] would have to rely extensively on expert witnesses on issues of accounting, loss causation, and damages." *SEPTA*, 2023 WL 1454371, at *11. Here, Defendants vociferously argued that Lead Plaintiffs could not establish loss causation and that the Class was not harmed at all, writing that Lead Plaintiffs' "sole evidence of loss causation and damages is based on demonstrably false and absurd facts." ECF 228 at 71. Proving loss causation and damages is plaintiffs' burden, and jury trials are always unpredictable, especially on complex issues like these.

The Court recognized these myriad disputed issues when denying both parties' motions for summary judgment and noting that "the record is teeming with genuine disputes of material fact." ECF 286 at 2 n.2.

Moreover, any trial victory for Lead Plaintiffs would likely have been appealed by Defendants, which – at a minimum – would have resulted in substantial delays before any Class recovery. The risks associated with establishing liability and damages at trial, and preserving any trial victory through appeal, thus weigh in favor of approving the Settlement.[2]

Taking into account that the Action and its related predecessor have been comprehensively litigated for eight years, and the risks and uncertainties of continued litigation, the record-breaking $192.5 million proposed recovery is certainly adequate. *See Girsh*, 521 F.2d at 157.

b. The Ability of Defendants to Withstand a Greater Judgment

This *Girsh* factor is neutral. Walgreens' business performance has been deteriorating and Defendants were not insured for these claims brought by Rite Aid investors. But Walgreens is still a formidable opponent with deep enough pockets to appeal this litigation as long as possible. And even if Defendants may be able to

[2] For example, Walgreens has filed a motion for summary judgment in the opt out cases arguing that the opt-out plaintiffs do not have standing to pursue these federal securities claims against Walgreens, a company in which Rite Aid stockholders did not invest. Lead Plaintiffs believe that such an argument is unmeritorious in the Third Circuit, *see Semerenko v. Cendant Corp.*, 223 F.3d 165 (3d Cir. 2000), but had Lead Plaintiffs prevailed at trial, Walgreens would have likely filed appeals and pursued this issue for as long as possible. A Supreme Court ruling overturning *Semerenko*, even if unlikely, could have wiped out an entire Class-wide recovery after trial, leaving the Class with nothing.

withstand a greater judgment, "where the other *Girsh* factors weigh in favor of approval, this factor should not influence the overall conclusions that the settlement is fair, reasonable, and adequate." *Utah Ret. Sys. v. Healthcare Servs. Grp., Inc.*, 2022 WL 118104, at *10 (E.D. Pa. Jan. 12, 2022).

c. The Settlement Falls Well Within the Range of Reasonableness

Girsh requires the Court to evaluate the proposed Settlement alongside "'a range of reasonable settlements in light of the best possible recovery (the eighth *Girsh* factor) and . . . in light of all the attendant risks of litigation (the ninth factor).'" *In re Merck & Co., Inc. Vytorin Erisa Litig.*, 2010 WL 547613, at *9 (D.N.J. Feb. 9, 2010). In making a "range of reasonableness" assessment, courts do not need to make a precise estimate of damages. *See In re N.J. Tax Sales Certificates Antitrust Litig.*, 2016 WL 5844319, at *8 (D.N.J. Oct. 3, 2016).

The Settlement is nearly 15 times the median value of securities class action settlements in 2022. Knotts Decl., ¶114. Moreover, the Settlement yields an exceptional recovery of between 18% and 22.5% of the Lead Plaintiffs' estimated recoverable damages – many times greater than the 1.7% median percentage recovery for cases settled with similar estimated damages. *Id.* This Settlement is the largest securities class action recovery in history paid by a company and its executives for issuing misleading statements that impacted the stock price of a different and

unaffiliated company. Knotts Decl., ¶¶115-119.[3] By any measure, this is an incredible result.

Given the complexity of this case and the risks and delay inherent in continued litigation, and the record-breaking amount of the recovery, the Settlement here falls well within the range of reasonableness and should be approved. *See Girsh*, 521 F.2d at 157.

4. The Settlement Satisfies the Remaining Rule 23(e)(2) Factors

The remaining factors of Rule 23(e)(2) require courts to consider: (i) the effectiveness of the proposed method for distributing relief; (ii) the terms of the proposed attorneys' fees, including the timing of payment; (iii) the existence of any other "agreements"; and (iv) whether the settlement treats class members equitably relative to each other. Fed. R. Civ. P. 23(e)(2)(C)(ii)-(iv); Fed. R. Civ. P. 23(e)(2)(D). These factors are met here.

[3] This definition excludes settlement payments by auditors, banks, and insurers engaged by, or owners of, the same corporation in which the Class invested. *Id.* For example, this comparison does not include the Enron Corporation ("Enron") securities settlement, where Enron's former investors received billions from Enron's own auditors and bankers. Here, in contrast, Walgreens was truly an unaffiliated third-party relative to the Class of Rite Aid investors. The Knotts Declaration describes similar cases in more detail. *Id.*

a. The Proposed Method for Distributing Relief Is Effective

The proposed methods of notice and claims administration are effective and provide the Class Members with the necessary information to receive their *pro rata* share of the Net Settlement Fund. The notice and claims processes are similar to those commonly used in securities class action settlements and provide for straightforward cash payments based on the trading information provided. *See Christine Asia Co., Ltd. v. Yun Ma*, 2019 WL 5257534, at *14 (S.D.N.Y. Oct. 16, 2019) ("This type of claims processing and method for distributing settlement proceeds is standard in securities and other class actions and is effective.").

b. The Requested Attorneys' Fees Are Reasonable

As set forth in more detail in the accompanying Memorandum of Law in Support of Motion for Award of Attorneys' Fees and Litigation Expenses, Lead Counsel's request for an award of attorneys' fees is reasonable, appropriate, and well within the ranges recommended by the Third Circuit. Further, because this is an all-cash settlement that will not be effective unless fully funded, there is no chance that counsel will be paid but Class Members will not.

c. The Parties Have No Other Agreements Besides an Agreement to Address Requests for Exclusion

The Settling Parties entered into a supplemental agreement providing that if the Court finds that Class Members have an additional right to request exclusion,

Defendants will have the right to terminate the Settlement in the event that valid requests for exclusion from the Class exceeds certain criteria. *See* ECF 307-1, ¶8.6. Because no second opt-out opportunity was granted, that agreement is moot.

d. Class Members Will Be Treated Equitably

Under Rule 23(e)(2)(D), all Class Members will be treated equitably. The Settlement provides that each Class Member, including Lead Plaintiffs, who submits a valid Claim Form will receive a *pro rata* share of the monetary relief based on the terms of the Plan of Allocation. *Healthcare Servs. Grp., Inc.*, 2022 WL 118104, at *9 ("This method ensures that settlement class members' recoveries are based on the relative losses they sustained, and eligible class members will receive a *pro rata* distribution from the net settlement fund calculated in the same manner.").

B. The Settlement Satisfies the Applicable *Prudential* Factors

In addition to the *Girsh* factors, the applicable *Prudential* factors fully support the Settlement. Lead Plaintiffs had ample opportunity to make an informed decision; the case proceeded deep into the merits and nearly to trial, Class Members had an opportunity to opt out of the Class after a widely disseminated and informative notice; and the method for processing claims is fair and reasonable. Under all applicable factors, Lead Plaintiffs and Lead Counsel respectfully submit that the Settlement is fair, reasonable, and adequate, and should be granted final approval.

VI. THE COURT SHOULD APPROVE THE PLAN OF ALLOCATION

The Notice contains a Plan of Allocation, which details how the Settlement proceeds are to be divided among Class Members who submit claims. *See* Murray Decl., Ex. A (Notice). The "'[a]pproval of a plan of allocation of a settlement fund in a class action is governed by the same standards of review applicable to approval of the settlement as a whole: the distribution plan must be fair, reasonable, and adequate.'" *Kanefsky*, 2022 WL 1320827, at *6.

This proposed Plan of Allocation is fair and reasonable. It was prepared with the assistance of Lead Counsel's loss causation and damages expert and calls for the distribution of the Settlement Fund on a *pro rata* basis, as determined by the ratio between each valid claim and the sum of all valid claims. Knotts Decl., ¶¶109-111. The calculation of each claim will depend upon several factors, including when Rite Aid shares were purchased, acquired, sold, or held. *See id.*, ¶110. Once each claim is calculated and verified, and the distribution ratio is determined, the Net Settlement Fund shall be distributed to Authorized Claimants who are entitled to a distribution of at least $10.00. Murray Decl., Ex. A (Notice at 7). Any amount remaining following the initial distribution will be further distributed among Authorized Claimants to the extent economically feasible. *Id.* These reallocations shall be repeated until the balance remaining in the Net Settlement Fund is *de minimis* and such remaining

balance shall then be donated to the Pennsylvania Legal Aid Network, an organization with which Lead Counsel has no known material affiliation. *Id.*

Courts routinely recognize that this method of distributing settlement funds is fair and reasonable in securities cases. *See, e.g.*, *Par Pharm.*, 2013 WL 3930091, at *8 (approving similar plan of allocation); *ViroPharma*, 2016 WL 312108, at *15 (same). For all of these reasons, the Plan of Allocation should be approved.

VII. CONCLUSION

Under any measure, the $192.5 million Settlement before the Court for approval is an outstanding culmination of this long-running litigation. Further, the proposed Plan of Allocation is an equitable method by which to distribute the Net Settlement Fund. For all the reasons stated above and in the accompanying declarations, Lead Plaintiffs respectfully request that the Court grant this motion for final approval of the Settlement and the Plan of Allocation as fair, reasonable, and adequate.

DATED: January 3, 2024

Respectfully submitted,

ROBBINS GELLER RUDMAN
& DOWD LLP
RANDALL J. BARON
A. RICK ATWOOD, JR.
DAVID A. KNOTTS
TEO A. DOREMUS

DAVID A. KNOTTS

655 West Broadway, Suite 1900
San Diego, CA 92101
Telephone: 619/231-1058
619/231-7423 (fax)

Lead Counsel for Plaintiffs

SAXTON & STUMP LLC
LAWRENCE F. STENGEL
CARSON B. MORRIS
280 Granite Run Drive, Suite 300
Lancaster, PA 17601
Telephone: 717/556-1000
lfs@saxtonstump.com
cbm@saxtonstump.com

Local Counsel

CERTIFICATE OF SERVICE

I hereby certify under penalty of perjury that on January 3, 2024, I authorized the electronic filing of the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the email addresses on the attached Electronic Mail Notice List, and I hereby certify that I caused the mailing of the foregoing via the United States Postal Service to the non-CM/ECF participants indicated on the attached Manual Notice List.

s/ David A. Knotts

DAVID A. KNOTTS

ROBBINS GELLER RUDMAN
& DOWD LLP
655 West Broadway, Suite 1900
San Diego, CA 92101-8498
Telephone: 619/231-1058
619/231-7423 (fax)

Email: dknotts@rgrdlaw.com

Mailing Information for a Case 1:18-cv-02118-JPW Chabot et al v. Walgreens Boots Alliance, Inc. et al

Electronic Mail Notice List

The following are those who are currently on the list to receive e-mail notices for this case.

- **A. Rick Atwood , Jr**
  ricka@rgrdlaw.com,e_file_sd@rgrdlaw.com,tdoremus@rgrdlaw.com
- **Randall J Baron**
  randyb@rgrdlaw.com,jaimem@rgrdlaw.com,e_file_sd@rgrdlaw.com
- **Thomas G. Collins**
  thomas.collins@bipc.com,christy.sunchych@bipc.com,theresa.gillis@bipc.com,krista.kiger@bipc.com,eservice@bipc.com
- **Stuart A Davidson**
  sdavidson@rgrdlaw.com,jdennis@rgrdlaw.com,e_file_sd@rgrdlaw.com,e_file_fl@rgrdlaw.com
- **Teo Doremus**
  tdoremus@rgrdlaw.com
- **David A Knotts**
  dknotts@rgrdlaw.com,jaimem@rgrdlaw.com,e_file_sd@rgrdlaw.com,tdoremus@rgrdlaw.com,dknotts@ecf.courtdrive.com
- **Sara E. Myirski**
  sara.myirski@bipc.com,christy.sunchych@bipc.com,theresa.gillis@bipc.com,krista.kiger@bipc.com,eservice@bipc.com
- **Mark Andrew Perry**
  mark.perry@weil.com
- **Jonathan D Polkes**
  jonathan.polkes@weil.com,mco.ecf@weil.com,jonathan-polkes-2906@ecf.pacerpro.com,walgreens.associate@weil.com,nymao@ecf.pacerpro.com
- **Lawrence F. Stengel**
  lfs@saxtonstump.com,cag@saxtonstump.com,cbm@saxtonstump.com
- **Caroline Zalka**
  caroline.zalka@weil.com,mco.ecf@weil.com,caroline-zalka-7810@ecf.pacerpro.com,adam.banks@weil.com,nymao@ecf.pacerpro.com

Manual Notice List

The following is the list of attorneys who are **not** on the list to receive e-mail notices for this case (who therefore require manual noticing). You may wish to use your mouse to select and copy this list into your word processing program in order to create notices or labels for these recipients.

```
Mason Capital Master Fund, L.P.
,

Recovery Master, LLC
,
```

UNITED STATES DISTRICT COURT

MIDDLE DISTRICT OF PENNSYLVANIA

DOUGLAS S. CHABOT, et al., Individually and on Behalf of All Others Similarly Situated, Plaintiffs, vs. WALGREENS BOOTS ALLIANCE, INC., et al., Defendants.	Civ. Action No. 1:18-cv-02118-JPW CLASS ACTION CERTIFICATE OF COMPLIANCE WITH LOCAL RULE 7.8

Pursuant to LR 7.8(b)(2), I hereby certify that Lead Plaintiffs' Memorandum of Law in Support of Motion for Final Approval of Settlement and Approval of Plan of Allocation was prepared using the word processing program Microsoft Word and that employing the counting features of such program, the text of the Memorandum contains 4,928 words (excluding the Table of Contents, Table of Authorities, and signature block).

DATED: January 3, 2024

ROBBINS GELLER RUDMAN
& DOWD LLP
RANDALL J. BARON
A. RICK ATWOOD, JR.
DAVID A. KNOTTS
TEO A. DOREMUS

DAVID A. KNOTTS

655 West Broadway, Suite 1900
San Diego, CA 92101
Telephone: 619/231-1058
619/231-7423 (fax)

Lead Counsel for Plaintiffs

SAXTON & STUMP LLC
LAWRENCE F. STENGEL
CARSON B. MORRIS
280 Granite Run Drive, Suite 300
Lancaster, PA 17601
Telephone: 717/556-1000
lfs@saxtonstump.com
cbm@saxtonstump.com

Local Counsel